

ZB# 95-20

**Park Road Construction
Corp.**

58-1-31

Prelim.
April 24, 1995.

~~Applicant's~~
~~Remove deck,~~

~~2nd Prelim~~
~~Letter out 5/10/95.~~
May 8, 1995
notice to Sentinel on 5/9/95.

Public Hearing

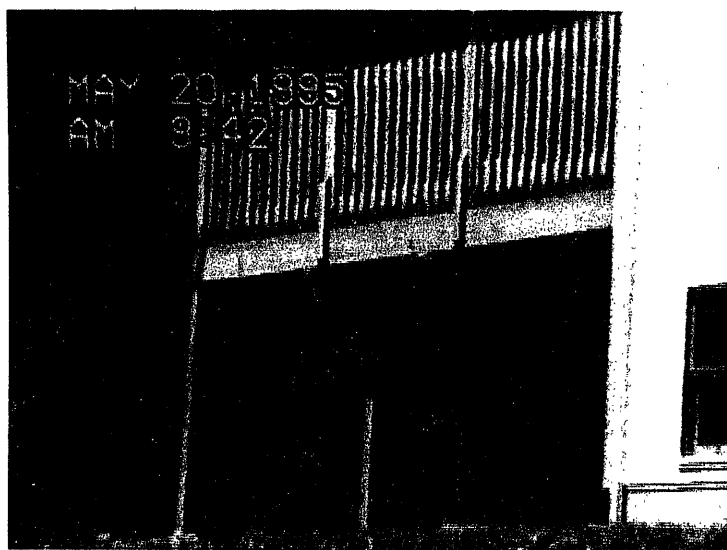
May 22, 1995

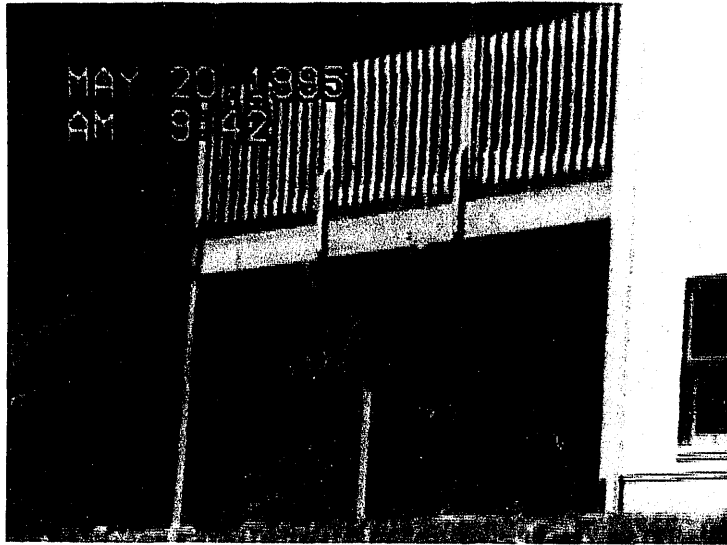
Copy of Deed ✓
② Title Report
③ Photos ✓
④ Fees: Paid ✓

Granted -
Area Variance

Refund: \$72.50

#95-20 - Park Road Const.
rear yard - 58-1-31





TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, NY 12550

GENERAL RECEIPT

14602

may 9 1995

Received of Park Road Construction Corp. \$ 50.00

Fifty 00/100 DOLLARS

For ZBA # 95-20

DISTRIBUTION:

| FUND | CODE | AMOUNT |
|----------|------|--------|
| ck# 3792 | | 50.00 |
| | | |
| | | |

By Dorothy H. Hansen

Town Clerk

Title

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Park Road Const. Co.

FILE # 95-20

RESIDENTIAL: \$50.00

COMMERCIAL: \$150.00

APPLICATION FOR VARIANCE FEE \$ 50.00 paid
#3792
* * * *

ESCROW DEPOSIT FOR CONSULTANT FEES \$ 300.00 paid
#3793

DISBURSEMENTS -

STENOGRAPHER CHARGES:

PRELIMINARY MEETING - PER PAGE . 4/24/95 10 pages \$ 45.00
2ND PRELIM. MEETING - PER PAGE . 5/8/95 4 " \$ 18.00
3RD PRELIM. MEETING - PER PAGE . 5/22/95 11 " \$ 49.50
PUBLIC HEARING - PER PAGE \$
PUBLIC HEARING (CONT'D) PER PAGE \$
TOTAL \$ 112.50

ATTORNEY'S FEES:

PRELIM. MEETING- _____ HRS. . 4/24/95 \$ 35.00
2ND PRELIM. _____ HRS. . 5/8/95 \$ 35.00
3RD PRELIM. _____ HRS. . 5/22/95 \$ 35.00
PUBLIC HEARING _____ HRS. \$
PUBLIC HEARING _____ HRS. (CONT'D) \$
FORMAL DECISION _____ HRS. \$
TOTAL HRS. _____ @ \$ _____ PER HR. \$ _____
TOTAL \$ 217.50

MISC. CHARGES:

Postage \$ 10.24
TOTAL \$ 227.50

LESS ESCROW DEPOSIT . . . \$ 300.00
(ADDL. CHARGES DUE) . . . \$
REFUND TO APPLICANT DUE . \$ 72.50

Date June 6, 1995.

TOWN OF NEW WINDSOR

**TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553**

TO Dark Road Const. Corp. DR.

P.O. Box 286

P.O. Box 200
Salisbury Mills, Inc

Charge: ZBA

[illegible]

| THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING | | 3792 | |
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| TOTAL OF INVOICES | | | |
| LESS | | | |
| AMOUNT OF CHECK | | | |

PARK ROAD CONSTRUCTION CORP.
P.O. BOX 286
SALISBURY MILLS, NY 12577

PAY TO THE ORDER OF Town of New Windsor
FIFTY

5/1 1985 50-235 620
219
 \$ 50.00
 DOLLARS

THE BANK OF NEW YORK
7 WEST MAIN ST. WASHINGTONVILLE, N.Y. 10992

MEMO: ZBA #95-20

MP

@003792@ :021902352: @6800002700@

| THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING | | 3793 | |
|--|--------|------|--|
| DATE | AMOUNT | | |
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| TOTAL OF INVOICES | | | |
| LESS | | | |
| AMOUNT OF CHECK | | | |

PARK ROAD CONSTRUCTION CORP.
P.O. BOX 286
SALISBURY MILLS, NY 12577

PAY TO THE ORDER OF Town of New Windsor
Three Hundred

5/1 1985 50-235 620
219
 \$ 300.00
 DOLLARS

THE BANK OF NEW YORK
7 WEST MAIN ST. WASHINGTONVILLE, N.Y. 10992

MEMO: ZBA #95-20

MP

@003793@ :021902352: @6800002700@

-----X
In the Matter of the Application of

PARK ROAD CONSTRUCTION CORP.

DECISION GRANTING
AREA VARIANCE#95-20.

-----X

WHEREAS, PARK ROAD CONSTRUCTION CORP., a corporation having an office at P. O. Box 286, Salisbury Mills, New York 12577, has made application before the Zoning Board of Appeals for a 17 ft. rear yard variance for an existing deck on a corner lot located at the intersection of Park Road and Ashley Drive in an R-4 zone; and

WHEREAS, a public hearing was held on the 22nd day of May, 1995, before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant was represented by Edward Biagini, President of the subject corporation; and

WHEREAS, there were no spectators appearing at the public hearing; and

WHEREAS, no one spoke and there was no opposition to the application before the Board; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence presented by the applicant showed that:

(a) The subject premises is a one-family house in a recently approved subdivision of one-family homes.

(b) The home could have been situated so that a smaller but substantial deck could have been put on the home without a variance but was located by the applicant in its present location at the request of his contract vendee.

(c) The contract vendee is in the house despite the fact that no certificate of occupancy has issued.

(d) The contract vendee built the subject without participation by the applicant and it is a large deck measuring approximately 27 ft. wide.

(e) The building inspector inspected the deck and has no concerns with respect to its safety.

(f) The original contract for the subject premises had

no provision for any deck.

(g) The house as situated meets all zoning requirements for the house itself. The only encroachment is by this deck which has already been built and is in place.

(h) The applicant seeks a 17 ft. rear yard variance out of a requirement of 40 ft., or a 42.5% variance.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law in this matter:

1. The requested variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

2. There is no other feasible method available to applicant which can produce the benefit sought other than the variance procedure.

3. The variance sought is a substantial request but nevertheless should be granted.

4. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the applicant faces in conforming to the bulk regulations is self-created but should be allowed.

6. It is the finding of this Board that the benefit to the applicant, if the requested area variance is granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant.

7. It is the further finding of this Board that the requested area variance is the minimum variance necessary and adequate to allow the applicant relief from the requirements of the bulk regulations and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

8. The interests of justice will be served by allowing the granting of the requested area variance.

NOW, THEREFORE, BE IT

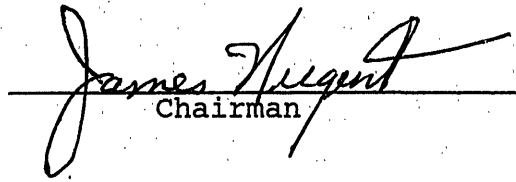
RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a 17 ft. rear yard variance to allow an existing deck at the residence located at the corner of Park Road and Ashley Drive, in an R-4 zone, as sought by the applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to

the Town Clerk, Town Planning Board and applicant.

Dated: July 10, 1995.


Chairman

(ZBA DISK#13-062995.PR)

Date 6/5/95, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth 147 Sycamore Dr DR.
New Windsor NY 12553

| DATE | | CLAIMED | ALLOWED |
|---------|------------------------|---------|---------|
| 5/22/95 | Zoning Board Meeting | 75.00 | |
| | Misc - 2 | | |
| | Evans - 13 | | |
| | Mobil Oil - 6 | | |
| | Brisman - 5 | | |
| | Meyers - 8 | | |
| | Tierney - 4 | | |
| | Park Road - 11 - 49.50 | | |
| | <u>50.00</u> | 225.00 | |
| | | 300.00 | |

PARK ROAD CONSTRUCTION

MR. NUGENT: Request for 17 ft. rear yard variance for existing deck on corner lot located on Park Road and Ashley Court in an R-4 zone.

Mr. Ed Biagini appeared before the board for this proposal.

MR. NUGENT: Let the record show that there is no one here for Park Road Construction, except the applicant, no audience.

MR. KRIEGER: If I may also Mr. Chairman, as I indicated at the time of the preliminary, I'm going to recuse myself from any, from giving any advice in this particular matter on account of my representation of the town in ongoing litigation against this particular applicant having to do with this particular parcel of property.

MR. NUGENT: Okay.

MR. NUGENT: Do you have pictures?

MR. BIAGINI: Yes, I have pictures.

MS. BARNHART: For the record, I sent out 32 addressed envelopes in accordance with the certified list on May 10th.

MR. NUGENT: Okay, you can start.

MR. BIAGINI: I am here for a 27 foot rear yard variance for a deck.

MR. TORLEY: Or 17.

MR. BIAGINI: 17, correct, it's a 27 foot deck.

MR. KANE: Was there any way to situate this house on the property so that you didn't need a variance of this size for the deck, if you put a deck on the home, if this house was situated on the property differently?

MR. BIAGINI: Yes, put a smaller deck on the home. I am the builder of the house. The home buyer had his own contractor put a deck on the house and this lot is situated on a corner and our interpretation of the corner lot rear yard requirement was that on a corner lot, you would have two front yards leaving you with one rear yard and one side yard and we thought that they were interchangeable but you could use either yard as a rear yard since you're on a corner lot.

MR. KANE: Let me ask a question here. There is a homeowner in there already in the home?

MR. BIAGINI: That is correct.

MR. KANE: And why, number one, why aren't they here if they built the deck?

MR. BIAGINI: They don't own it yet, they are the home buyer, we're here for a variance so we can get the C.O. for the home.

MR. KANE: So they are in the home without a C.O. at this point?

MR. BIAGINI: That is correct.

MR. TORLEY: How long has that been going on?

MR. BIAGINI: Eight months.

MR. TORLEY: Eight months without a C.O. At what point did you start the application for the variance?

MR. BIAGINI: Well, I put the application for the C.O. in in September and the application for the deck has been on since September, the building department has had the survey since then and the only, whatever, six weeks ago, did they tell me that I needed a variance for this deck.

MR. KANE: So to go back to the beginning, you had said that it's possible to put this in the home, could have been placed so that a smaller deck would have been on that parcel correctly when they placed the home, did

they follow the buildable zone to build that home in?

MR. BIAGINI: Yes.

MR. TORLEY: Was that, were there any previous plans on this, proposed sites for house, et cetera?

MR. BIAGINI: No

MR. TORLEY: This house is now only--

MR. BIAGINI: Well, there is a subdivision map that shows a house on the property, sure.

MR. TORLEY: So, this was not built in conformance with the subdivision plot showing a house on the property?

MR. BIAGINI: Not the deck, the house is, is pretty much in conformance, yes?

MR. TORLEY: The foundation of the house is where it was shown on the subdivision map.

MR. BIAGINI: That is correct. As a matter of fact, not on that survey but on the most recent survey, states that the location of the house is consistent with the approved subdivision plans.

MR. KANE: That is part of a recently approved subdivision.

MR. BIAGINI: Well, 1991.

MR. BABCOCK: Mr. Chairman, just to maybe clear the record, Mr. Biagini stated that the building department had this survey sometime since September, we received this survey April 24, 1995. That was the day we received it, he personally handed it to me that day.

MR. BIAGINI: I handed you that one, Andy Krieger was in possession months earlier.

MR. BABCOCK: I don't know about anybody else, you gave it to the building department, you did not--

MR. BIAGINI: Yes, I did in September I brought it in.

MR. BABCOCK: I'd like to go on record saying that I received the survey stamped in at my office April 24th.

MR. BIAGINI: That survey.

MR. BABCOCK: For your information, Larry, there was a survey submitted for the building that showed a different location.

MR. TORLEY: May we see that? Now Mr. Biagini, I'm looking at two survey lots, one stamped, both by the same surveyor, this is what was filed with the building department?

MR. BIAGINI: That is correct.

MR. TORLEY: I'm sorry, I really don't think that this foundation is anywhere near the same location as this foundation.

MR. BIAGINI: Well--

MR. TORLEY: They are both on the same lot.

MR. BIAGINI: In the same buildable area.

MR. TORLEY: Rotated 90 degrees, pushed back and moved, they are in the same buildable area, they are in the same--

MR. BIAGINI: Let me say this to you, there's no--

MR. TORLEY: Why was it moved?

MR. BIAGINI: At the home buyer's request, they wanted the driveway coming straight in. There's no deck, there's no representation of any deck on this house and my involvement at this point is to get them a variance for the deck that they put on the house. I had no idea they were putting on a 26 foot deck. This came about, Mr. Julian, who is the person buying the home, had a conversation with Mr. Babcock and a friend of Mr. Babcock's and he was told that the corner lot--

MR. TORLEY: We keep getting into hearsay, that is no good.

MR. BIAGINI: This is how the house sits today, that is the deck.

MR. TORLEY: This is what you have got the building permit for?

MR. BIAGINI: That is correct.

MR. TORLEY: If the house had been built there, the deck would have fit within the buildable area.

MR. BIAGINI: I don't think so. Possibly, but in any event I--

MR. TORLEY: Why was the house moved?

MR. BIAGINI: Because the people buying the house, when we staked the house out, they requested that the house be turned and we turned it and the building department has been out there 15 times. There's not, we didn't do it in the middle of the night, we did it before we poured the footings. It's something that the situation right now is that there's a deck there in need of a variance.

MR. KANE: To address some of our other questions, as far as safety, the house, the deck is built in accordance with all the safety regulations?

MR. BIAGINI: It's been inspected, the building department has inspected it.

MR. KANE: There's no safety hazards?

MR. BABCOCK: To my knowledge, there was no concerns with the deck whatsoever.

MR. TORLEY: How deep are the footings for the deck?

MR. BACOCK: I didn't personally inspect that Larry but I do know that we did have a list of items that had to

be corrected and to my knowledge, there was none of the items included anything on the deck.

MR. KANE: Nothing, the deck's attached to the house, right, how high is the deck off the ground?

MR. NUGENT: About ten feet.

MR. BIAGINI: Probably ten feet on one side, eight feet on the other.

MR. KANE: Were any of the violations that you had, Michael, dealing with the house itself structurally?

MR. TORLEY: Pretty raw, is this rocks or fill or natural grade?

MR. BIAGINI: It's not fill, it's the grade there. What are you looking at?

MR. TORLEY: Where the footings are, sharp dropoff.

MR. BIAGINI: Well, if you look at the other picture, it shows--

MR. REIS: Have you inspected this deck?

MR. BABCOCK: Yes. Everything that he, all the items which were minor, cross brace and bring up some grade around the sonit tubes, some more nails in the joist hangers, secure the deck railings where they meet at the house.

MR. KANE: Minor.

MR. BABCOCK: All of them have been taken care of.

MR. KANE: What about the other things, was that anything structural with the house that didn't conform since this is so high off the ground and it's attached to the house?

MR. BABCOCK: No.

MR. NUGENT: We've got two conversations going on, it's

better that we have one at a time. Larry, if you have concerns, please voice them loud enough for the rest of the members.

MR. TORLEY: My question is now we're, as I look at the ground around the decking, whether this was natural grade or if it had been filled in Mr. Biagini, am I correct you're saying it's just not fill?

MR. BIAGINI: That is the ground that came that we dug out from the excavation of the full foundation and as far as the terrain, the slope of the terrain, we have a certification on the survey from Dan Yanosh, the surveyor, that it is a less than a one on three slope.

MR. KANE: So, that is the natural slope, Michael, did you say that Frank found that the footings had to be covered again so wouldn't you backfill, put something in?

MR. BABCOCK: That is what he had told me.

MR. TORLEY: And I see on the primary, what I will refer to as the building permit plans there's no mention of fill.

MR. BIAGINI: Which is the plot plan.

MR. TORLEY: It's what you file to get your building permit.

MR. BIAGINI: Yeah, there's no mention of the slope, this was put on at the request of the Town Engineer, that note.

MR. NUGENT: If my calculations are correct, they could have put on a ten foot deck with no variance.

MR. BIAGINI: That is correct.

MR. TORLEY: Mr. Chairman, I've got to say I would not be willing to make a final vote on this without hearing directly from the present occupants of the dwelling, whoever built this deck.

MR. NUGENT: They don't own it.

MR. BIAGINI: To be quite honest with you, they may not own it, okay, we're in contract but I am the owner right now.

MR. TORLEY: You're the owner of this structure?

MR. BIAGINI: That is correct.

MR. TORLEY: And these people who may or may not be the future owners of it put up a deck on the site?

MR. BIAGINI: That is correct, we have a contract with them.

MR. TORLEY: That contract did not mention the decking on the house.

MR. BIAGINI: That is correct. Would you like to see the contract?

MR. TORLEY: If you have got it. And the other question is so when they put this deck up, that is why I wanted to meet with these people cause did they say how big the deck was, what was their interpretation? I'd like to speak to the people who actually built the deck.

MR. KANE: I don't see that.

MR. NUGENT: I don't see where that is pertinent but Mr. Biagini owns it and for all intents and purposes, if they don't end up with that, he'd probably have to reimburse them for the cost of the deck, I would guess.

MR. BIAGINI: The deck will be pressure treated at \$10.00 per foot, should they have us build it. He decided to have it built by his brother-in-law.

MR. TORLEY: So the plans that they approved for the, contracted with for the site of the house with no deck?

MR. BIAGINI: That is correct.

MR. KANE: So again, what I hear is that the people that are currently occupying the house at their own expense put this deck on and then if we don't grant the variance, that would create a difficult financial situation?

MR. BIAGINI: Correct.

MR. LANGANKE: How much does a deck like that cost?

MR. BIAGINI: Well, we charge, it's an old price, we charge \$12.00 a square foot but about \$8.00 a square foot would be pretty close.

MR. LANGANKE: That is 27 by what?

MR. BIAGINI: I'd say it's probably about 700 square feet.

MR. LANGANKE: Talking a lot of money here.

MR. REIS: In your opinion, is the deck hazardous in any way, shape or form?

MR. BABCOCK: No, I didn't inspect the deck but Frank did. He found some very minor things wrong and they have been all taken care of.

MR. LANGANKE: So in effect, he could have put up a ten foot deck with no variance and he needs a variance for 17 foot?

MR. NUGENT: He put up a 27 foot deck.

MR. LANGANKE: Right.

MR. NUGENT: He almost built another house.

MR. TORLEY: Just for the record, Mr. Biagini, how long have you been building houses?

MR. BIAGINI: 20 years.

MR. TORLEY: 20 years, during that time, you have been building them in the Town of New Windsor?

MR. BIAGINI: Sure, yes.

MR. TORLEY: And you have never came across, you have never had a house with two front yards before?

MR. BIAGINI: Yes, I have, yes.

MR. TORLEY: And how did you come to the thought that this was, that you assigned this the back yard?

MR. BIAGINI: By reading your code.

MR. TORLEY: And you never had any discussions with the building inspector before in this?

MR. BIAGINI: No, we haven't had this problem. And I don't think in discussing this with Mike that he had this problem come up before.

MR. NUGENT: Didn't put the deck on, he wouldn't have this problem. House is legal, right, meets all the setbacks?

MR. BABCOCK: Yeah, we had, I mean not with Mr. Biagini, but other people, we have had the same similar situation, you gentlemen are well aware that here and there but not with Mr. Biagini.

MR. BIAGINI: Just at the preliminary meeting, it didn't seem that it was evident there was some discussion about who would do the determining, you know, that is one lot shall be deemed a side yard, one shall be deemed a rear yard and we really didn't know.

MR. TORLEY: So, for future purposes, you're now well aware that if you have a two front yards situation that this has to be settled with the building inspector?

MR. BIAGINI: Well, I would like for future to know what is the, you know, I know that it is one yard shall be deemed the rear yard and one shall be the front or the side.

MR. NUGENT: The one that the front door is on.

MR. BIAGINI: I could have avoided this by putting the front door--

MR. NUGENT: On the other side.

MR. KANE: My brother-in-law was in that situation that the applicants know their proper limitations, if they face their house in a certain direction and I think you as a builder have an obligation to let them know the rules and regulations of the town. This was constructed by the future homeowners and on that map was there any indication of what their buildable area, where they could put structures on the map?

MR. BIAGINI: Well, I mean, we don't have a map attached to our contract but we do on our subdivision plan, sure, we have buildable areas. But our normal deck is 10 by 12 and had I been building the deck, I certainly would have made sure that it is not going to be a 27 foot deck. This thing sprung up over a weekend. We came up the road on a Monday and--

MR. NUGENT: Any further questions?

MR. LANGANKE: I don't have anymore.

MR. TORLEY: If we are restricting ourselves as to, the only thing is to whether the deck itself meets at building codes now?

MR. BABCOCK: Yes, that is correct.

MR. TORLEY: You're not saying about the rest of the structures, we're just talking about the deck?

MR. BABCOCK: Yeah.

MR. NUGENT: That is all we're talking about.

MR. TORLEY: I have no questions.

MR. KANE: I move that we grant the Park Road Construction the requested 17 foot rear yard variance for a corner lot located on Park Road in the Ashley

Court R-4 zone.

MR. REIS: Second it.

ROLL CALL

| | |
|--------------|-----|
| MR. LANGANKE | AYE |
| MR. REIS | AYE |
| MR. KANE | AYE |
| MR. TORLEY | NO |
| MR. NUGENT | AYE |

MR. BIAGINI: One question since I just learned something new about corner lots, perhaps Mike can you tell me is it your position that the grading of this lot is now in conformance with the subdivision plan or will I need a variance for that?

MR. BABCOCK: I don't make that determination, the engineer.

MR. KRIEGER: That is apples and oranges, what does that have to do with the orientation of the building?

MR. TORLEY: If you are bringing up about drainage and slopes.

MR. BIAGINI: The reason I ask is the reason we're in court was the town had taken a position that the house was 8 feet too high.

MR. KRIEGER: It's rather complicated. This hearing being over, it's rather complicated and I would suggest that the questions the applicant are now asking is outside the purview of the Zoning Board of Appeals and basically irrelevant to it. And they ought to be asked in a different place in a different forum.

MR. NUGENT: Different people.



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

May 10, 1995

PARK ROAD CONSTRUCTION
P. O. Box 286
Salisbury Mills, N. Y. 12577

Attn: Edward Biagini

Re: Tax Map Parcel #58-01-31

Dear Mr. Biagini:

According to our records, the attached list of property owners are within five Hundred (500) feet of the above-referenced property.

The charge for this service is \$55.00, minus your deposit of \$25.00, leaves a balance due of \$30.00.

Sincerely,

LESLIE COOK
Sole Assessor

/pab
Attachment
cc: Patricia A. Barnhart

Rakowiecki, Frances J.
423 Station Road
Salisbury Mills, N. Y. 12577

Estate of Margaret Capolino
% Ilando Capolino
50 Main Street - Suite 1000
White Plains, N. Y. 10601

Kennedy, Charlene M. & James R.
21 Park Road
Salisbury Mills, N. Y. 12577

Hirsch, Mayer
6 Hayes Court
Monroe, N.Y. 10950

Locascio, Philip & Clara
25 Park Road
Salisbury Mills, N. Y. 12577

Stuber, Kenneth L. & Elizabeth
29 Park Road
Salisbury Mills, N. Y. 12577

McManus, Lori Ann
14 Ashley Court
Salisbury Mills, N. Y. 12577

Vallancourt, John P. & Sheila M.
Ashley Court
Salisbury Mills, N. Y. 12577

Pawlak, James M. & Maureen
6 Ashley Court
Salisbury Mills, N. Y. 12577

Quinn, James P. & Deborah A.
2 Ashley Court
Salisbury Mills, N.Y. 12577

Stevens, Chris & Kathleen A.
45 Park Road
Salisbury Mills, N. Y. 12577

Foy, Michael R. & Sherrie
P. O. Box 150
Salisbury Mills, N. Y. 12577

Lamarr, Rudolph & Barbara A.
7 Alphonse Court
Salisbury Mills, N. Y. 12577

Spaulding, James G. & Patricia D.
13 Alphonse Court
Salisbury Mills, N. Y. 12577

Burgos, Victor A. & Jacqueline P.

17 Alphonse Court
Salisbury Mills, N. Y. 12577

Rodstrom, Gregory A. & Anna D.
Park Road
Salisbury Mills, N. Y. 12577

Wallace, Jerry & Theresa J.
30 Park Road
Salisbury Mills, N. Y. 12577

Sheehy, Thomas P. & Janet C.
24 Park Road
Salisbury Mills, N. Y. 12577

Corrado, Dominic & Jacalyn
18 Park Road
Salisbury Mills, N. Y. 12577

Clayton, Sally W.
30 Hillcrest Drive
Salisbury Mills, N. Y. 12577

Mahoney, Michael J. & Elizabeth A.
32 Hillcrest Drive
Salisbury Mills, N. Y. 12577

Segrett, Steven M. & Mary T.
Hamilton, Robert J.
7 Forest Lane
Salisbury Mills, N. Y. 12577

Youmans, William H. & Ellen M.
3 Forest Lane
Salisbury Mills, N. Y. 12577

Lachance, Peter & Andrea
22 Ridgeview Road
Salisbury Mills, N. Y. 12577

Ferraioli, Gilda
1 Forest Lane
Salisbury Mills, N. Y. 12577

Rodriguez, Emilio
28 Hillcrest Drive
Salisbury Mills, N. Y. 12577

Burke, Daniel J. & Kathleen M.
26 Hillcrest Drive
Salisbury Mills, N. Y. 12577

Briody, Thomas & Sonia
24 Hillcrest Drive
New Windsor, N. Y. 12553

Dragonetti, Ralph E., Jr.
6 Forest Lane

Salisbury Mills, N. Y. 12577

Arrant, Laurence & Lisa
31 Hillcrest Drive
Salisbury Mills, N. Y. 12577

Suman, Katherine
12 Ridge Road
Salisbury Mills, N. Y. 12577

Washburn, Raymond F. & Colleen A.
2 Forest Lane
Salisbury Mills, N. Y. 12577

PRINT OR TYPE: BLACK INK ONLY

SUBURBAN HOMES OF ORANGE COUNTY, INC.

TO

PARK ROAD CONSTRUCTION CORP.

SECTION 58 BLOCK 1 LOT 17.2
24.1

RECORD AND RETURN TO:

(Name and Address)

MCGUIRK, LEVINSON, ZECCOLA, SEAMAN,
REINEKE & ORNSTEIN, P.C.
P.O. BOX 244
CENTRAL VALLEY, NEW YORK 10917

Attention: David L. Levinson, Esq.

ATTACH THIS SHEET TO THE FIRST PAGE OF EACH
RECORDED INSTRUMENT ONLY.

DO NOT WRITE BELOW THIS LINE

CONTROL NO. 60522 DATE 12/30/91 AFFIDAVIT FILED 19INSTRUMENT TYPE: DEED / MORTGAGE SATISFACTION ASSIGNMENT OTHER

BG20 Blooming Grove
 CH22 Chester
 CO24 Cornwall
 CR26 Crawford
 DP28 Deepark
 GO30 Goshen
 GR32 Greenville
 HA34 Hamptonburgh
 HI36 Highlands
 MK38 Minisink
 ME40 Monroe
 MY42 Montgomery
 MH44 Mount Hope
 NT46 Newburgh (T)
 NW48 New Windsor
 TU50 Tuxedo
 WL52 Wallkill
 WK54 Warwick
 WA56 Wawayanda
 WO58 Woodbury
 MN09 Middletown
 NC11 Newburgh
 PJ13 Port Jervis
 9999 Hold

SERIAL NO. Mortgage Amount \$ Exempt Yes No 3-6 Cooking Units Yes No

Received Tax on above Mortgage

Basic \$ MTA \$ Spec. Add. \$ TOTAL \$ CHECK / CASH CHARGE MORTGAGE TAX \$ TRANSFER TAX \$ EXEMPTEd Fund 5-00
RECORD. FEE \$ 14.00REPORT FORMS \$ 30.00CERT. COPIES \$ MARION S. MURPHY
Orange County Clerkby: lt

ORANGE COUNTY CLERK'S OFFICE S.S.

Recorded on DEC 31 1991at 10:26 O'Clock Dec 31 A. M.in Liber/Film 3541 Deedat page 187 and examined.Marion S. Murphy

County Clerk

LIBER 3541 PAGE 187

RECEIVED

EXEMPT

REAL ESTATE
DEC 31 1991TRANSFER TAX
ORANGE COUNTY

ORG 12/31/91 10:26:50 55822 44.00

***** EDUCATION FUND: 5.00 *****

DEED CONTROL NO: 62522 .00 *

***** SERIAL NUMBER: 003596 *****

MAY-17-1995 09:02

MCGUIRK LEVINSON

9149289941 P.03

Standard N.Y.S.T.L. Form 8002: Bargain & sale deed,
with covenant against grantor's acts—Ind. or Corp. single sheet

JULIUS BLUMBERG, INC., LAW BLANK PUBLISHERS

COLLECTION DEED

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

DLL/erw
#19,383

THIS INDENTURE, made the 30th day of December, nineteen hundred and ninety-one
BETWEEN SUBURBAN HOMES OF ORANGE COUNTY, INC., with a principal place for
business at P.O. Box 286, Salisbury Mills, New York 12577

party of the first part, and PARK ROAD CONSTRUCTION CORP., with a principal place for
business at P.O. Box 286, Salisbury Mills, New York 12577

party of the second part,

WITNESSETH, that the party of the first part, in consideration of Ten Dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the

See Schedule "A" annexed hereto and made
part hereof.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above

IN WITNESS WHEREOF,

SUBURBAN HOMES OF ORANGE COUNTY, INC.

By: Edward Biagini
Edward Biagini, President

All that certain plot, piece or parcel of land with the buildings and improvements thereon erected, situate, lying and being in the Town of New Windsor, County of Orange, State of New York, bounded and described as follows:

BEGINNING at a point at the northwesterly corner of the Park Road right-of-way said point being 659.67 feet away from the southwest corner of the intersection of Park Road and Lake Road along the southerly side of the Park Road right-of-way; thence

1. N 74° 19' 30" W 80.33 feet to an iron pipe; thence
2. S 15° 40' 30" W 150.00 feet to an iron pipe; thence
3. N 74° 04' 47" W 381.18 feet along a stone wall to an iron pipe; thence
4. S 16° 15' 00" W 78.00 feet along a stone wall to a point; thence
5. N 77° 48' 00" W 310.13 feet along a stone wall to a point; thence
6. N 70° 38' 00" W 184.33 feet along a stone wall to an iron pipe; thence
7. N 27° 37' 00" E 339.40 feet along a stone wall to a point; thence
8. N 28° 52' 00" E 191.65 feet along a stone wall to a point; thence
9. N 26° 45' 30" E 289.30 feet along a stone wall to a point; thence

10. N 28° 31' 00" E 179.90 feet along a stone wall to a point;
thence
 11. N 26° 47' 00" E 143.20 feet along a stone wall to a point;
thence
 12. N 83° 26' 00" E 440.60 feet to a point; thence
 13. 508.88 feet along a curve to the right having a radius of
3,719.83 feet to a point, thence
 14. S 2° 47' 23" W 142.47 feet to a point; thence
 15. N 73° 44' 00" W 61.59 feet to a point; thence
 16. S 16° 16' 00" W 350.00 feet to an iron pipe; thence
 17. S 73° 44' 00" E 150.00 feet to an iron pipe; thence
 18. S 16° 16' 00" W 161.00 feet to a point; thence
 19. N 73° 44' 00" W 150.00 feet to a point; thence
 20. 134.65 feet along a curve to the left having a radius of
86.29 feet to a point; thence
 21. S 15° 40' 30" W 427.22 feet to a point; thence
 22. N 74° 19' 30" W 50.00 feet to a point; thence
 23. S 15° 40' 30" W 50.00 feet to the point and place of beginning.
- CONTAINING 25.9882 acres more or less.

~~LIBER 3538 PAGE 73~~

LIBER 3541 PAGE 190

STATE OF NEW YORK, COUNTY OF

ss:

On the day of 19 , before me
personally came

to me known to be the individual described in and who
executed the foregoing instrument, and acknowledged that
executed the same.

STATE OF NEW YORK, COUNTY OF ORANGE

ss:

On the ^{30th} day of December 19 91, before me
personally came EDWARD BIAGINI
to me known, who, being by me duly sworn, did depose and
say that he resides at No. P.O. Box 286, Salisbury
 Mills, New York 12577 ;
that he is the President
of Suburban Homes of Orange County, Inc.
 the corporation described
in and which executed the foregoing instrument; that he
knows the seal of said corporation; that the seal affixed
to said instrument is such corporate seal; that it was so
affixed by order of the board of directors of said corpora-
tion, and that he signed h name thereto by like order.

D. L. L.
DAVID LEVINSON
Notary Public, State of New York
in and for Orange County
Commission Expires 6-30-93.

Margara and Shale Beach
WITH COVENANT AGAINST GRANTOR'S ACTS

TITLE No.

STATE OF NEW YORK, COUNTY OF

ss:

On the day of 19 , before me
personally came

to me known to be the individual described in and who
executed the foregoing instrument, and acknowledged that
executed the same.

STATE OF NEW YORK, COUNTY OF

ss:

On the day of 19 , before me
personally came
the subscribing witness to the foregoing instrument, with
whom I am personally acquainted, who, being by me duly
sworn, did depose and say that he resides at No.

that he knows

to be the individual
described in and who executed the foregoing instrument;
that he, said subscribing witness, was present and saw
execute the same; and that he, said witness,
at the same time subscribed h name as witness thereto.

SECTION

BLOCK

LOT

COUNTY OR TOWN

TO

RETURN BY MAIL TO:

Zip No.

Reserve this space for use of Recording Office.

LIBER 3541 PAGE 159

TOTAL P.05

PUBLIC NOTICE OF HEARING BEFORE
ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR

Rec'd. ZBA
5/26/95 -
Returned for
Better Address
(PAB)

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the
TOWN OF NEW WINDSOR, New York will hold a Public Hearing
pursuant to Section 48-34A of the Zoning Local Law on the
following proposition:

Appeal No. 20

Request of PARK ROAD CONSTRUCTION, CORP.

for a VARIANCE of the Zoning Local Law to permit:

existing deck with insufficient rear yard;

being a VARIANCE of Section 48-12 - Table of Use/Bulk Regulations -

Column G

for property situated as follows:

33 Park Road, New Windsor, N. Y.

known as tax lot Section 58 Block 1 Lot 31.

SAID HEARING will take place on the 22nd day of May,
1995, at New Windsor Town Hall, 555 Union Avenue, New Windsor,
New York, beginning at 7:30 o'clock P.M.

JAMES NUGENT
Chairman

Prelim.
Apr. 24, 1995

OFFICE OF THE BUILDING INSPECTOR - TOWN OF NEW WINDSOR
ORANGE COUNTY, NEW YORK

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

DATE: APRIL 24, 1995

APPLICANT: PARK ROAD CONSTRUCTION, CO. ED BIAGINI
BOX 286
SALSBURY MILLS, N.Y. 12577

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED: APRIL 24, 1995

FOR (C.O.):

LOCATED AT: 33 PARK ROAD

ZONE: R-4

DESCRIPTION OF EXISTING SITE: SECTION: 58 BLOCK: 1, LOT: 31
ONE FAMILY HOUSE

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. INSUFFICIENT REAR YARD SET-BACK.



BUILDING INSPECTOR

REQUIREMENTS

PROPOSED OR
AVAILABLE

VARIANCE
REQUEST

ZONE: R-4 USE 48-14-B-2

MIN. LOT AREA

MIN. LOT WIDTH

REQ'D FRONT YD

REQ'D SIDE YD

REQ'D TOTAL SIDE YD

REQ'D REAR YD. 40FT. 23FT. 17FT.

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT
914-563-4630 TO MAKE AN APPOINTMENT WITH THE ZONING BOARD

CC: Z.B.A., APPLICANT, B.P. FILES.

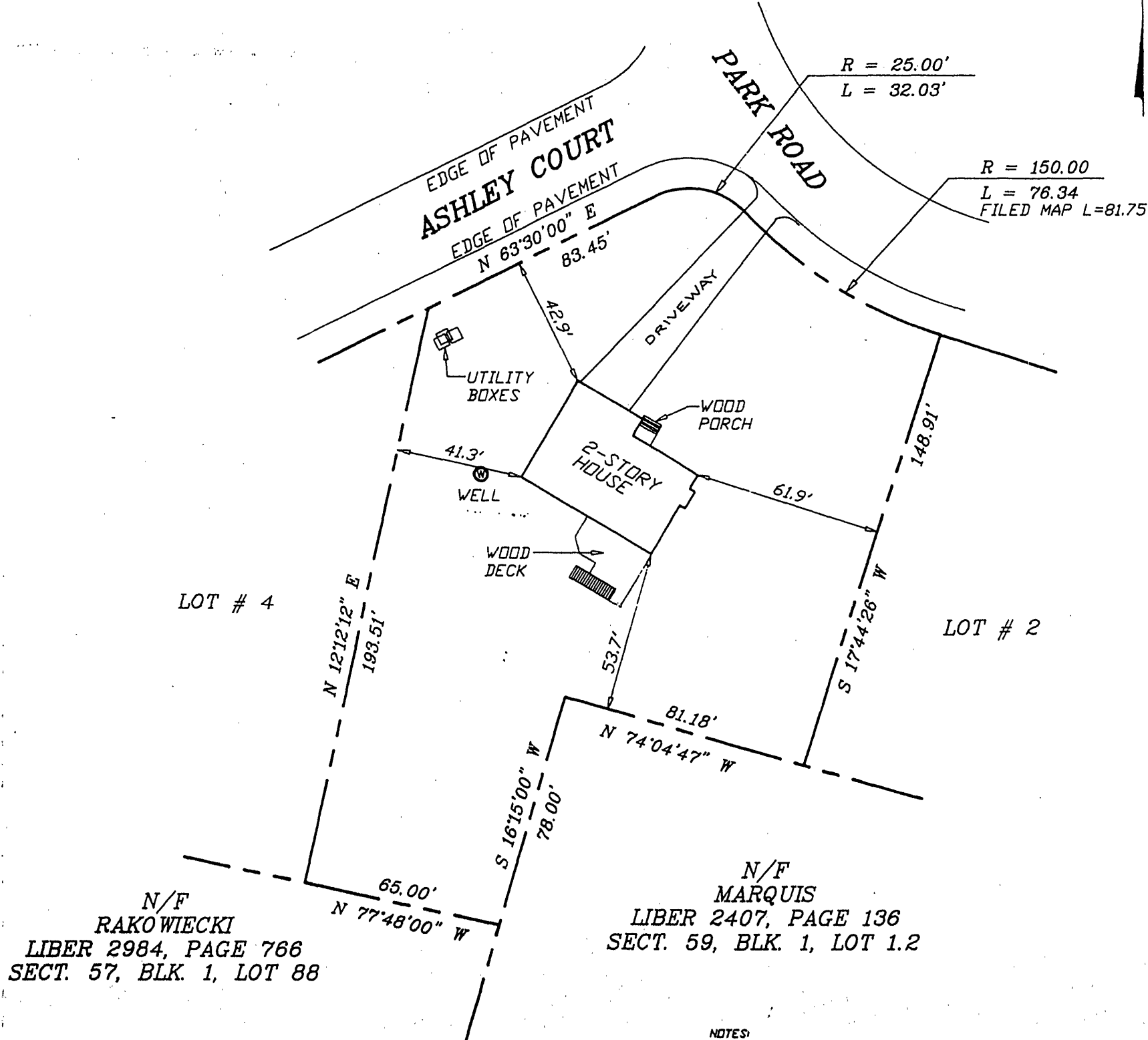
SURVEY: LOT # 3 - GROVE HOMES, INC.
LANDS TO BE CONVEYED TO: JOHN A. & CATHERINE A. JULIAN

TOWN OF NEW WINDSOR, COUNTY OF ORANGE, STATE OF NEW YORK,
SCALE: 1" = 40 FEET DATE: SEPTEMBER 28, 1994

TAX MAP DESIGNATION: SECT. 58, BLK. 1, LOT 31
DEED REFERENCE: LIBER 3541 PAGE 187
AREA: 29,670 sq. ft. or 0.68 ± ACRES

MAP REFERENCE: BEING LOT # 3 AS SHOWN ON A MAP ENTITLED
"SUBDIVISION FOR GROVE HOMES, INC.", PREPARED BY
ZIMMERMAN ENGINEERING & SURVEYING P.C., AND FILED IN THE
ORANGE COUNTY CLERK'S OFFICE ON OCTOBER 1, 1992 AS MAP #204-92

FM #204-92



N/F
RAKOWIECKI
LIBER 2984, PAGE 766
SECT. 57, BLK. 1, LOT 88

N/F
MARQUIS
LIBER 2407, PAGE 136
SECT. 59, BLK. 1, LOT 1.2

NOTES

EDGE
ASHLEY C
EDGE OF PAVEMENT
N 63°30'00" E
83.45'

L = 76.34
FILED MAP L=81.75

LOT # 4

LOT # 2

N/F
RAKOWIECKI
LIBER 2984, PAGE 766
SECT. 57, BLK. 1, LOT 88

N/F
MARQUIS
LIBER 2407, PAGE 136
SECT. 59, BLK. 1, LOT 1.2

SEPTEMBER 29, 1994

CERTIFY TO:

SUBURBAN HOMES OF ORANGE COUNTY, INC.,
JOHN A. & CATHERINE A. JULIAN
NATIONS TITLE INSURANCE OF NEW YORK INC.
MIDDLETOWN SAVINGS BANK, ITS SUCCESSORS AND/OR
ASSIGNS FOR THIS MORTGAGE ONLY.

TO BE A TRUE SURVEY PERFORMED IN THE FIELD
AND THAT IT IS TO THE BEST OF MY KNOWLEDGE
AND BELIEF CORRECT AND THAT THE HOUSE IS
LOCATED WITHIN THE LOT LINES AND THAT THERE
ARE NO ENCROACHMENTS OR VIOLATIONS OF ANY
SETBACK REQUIREMENTS CONTAINED IN THE
APPLICABLE ZONING OR APPLICABLE ZONING
ORDINANCES.

DANIEL P. YANOSH L.L.S.
N.Y.S. LICENSED LAND SURVEYOR

DRAWN BY: TM JOB #: 87-07-03

NOTES:

1. CERTIFICATIONS INDICATED HEREON SIGNIFY THAT THIS SURVEY WAS PREPARED IN ACCORDANCE WITH THE EXISTING CODE OF PRACTICE FOR LAND SURVEYORS ADOPTED BY THE NEW YORK STATE ASSOCIATION OF PROFESSIONAL LAND SURVEYORS. SAID CERTIFICATIONS SHALL RUN ONLY TO THOSE NAMED INDIVIDUALS AND/OR INSTITUTIONS FOR WHOM THE SURVEY IS PREPARED. CERTIFICATIONS ARE NOT TRANSFERABLE TO ADDITIONAL INDIVIDUALS, INSTITUTIONS, THEIR SUCCESSORS AND/OR ASSIGNS OR SUBSEQUENT OWNERS.
2. UNAUTHORIZED ALTERATION OR ADDITION TO A SURVEY MAP BEARING A LICENSED LAND SURVEYORS SEAL IS A VIOLATION OF SECTION 7209, SUBDIVISION 2 OF THE N.Y. STATE EDUCATION LAW. ONLY COPIES FROM THE ORIGINAL OF THIS SURVEY MARKED WITH AN ORIGINAL OF THE LAND SURVEYORS INKED SEAL OR HIS EMBOSSED SEAL SHALL BE CONSIDERED TO BE VALID TRUE COPIES.
3. SUBJECT TO AN UP TO DATE ABSTRACT OF TITLE.
SUBJECT TO UNDERGROUND UTILITIES AND EASEMENTS NOT RECORDED AND/OR NOT VISIBLE AT TIME OF FIELD SURVEY.

DANIEL P. YANOSH L.L.S.
P.O. BOX 320 ROUTE 302
CIRCLEVILLE, NEW YORK 10919

PHONE : (914) 361 - 4700
FAX : (914) 361 - 4722

58-1-31

JERRY SHERMAN • ARCHITECT

RECEIVED APR 24 1995

459 Station Road, Salisbury Mills, NY 12577

(914) 496-6833

FAX 496-5066

11 October 1994

Mr. Frank Lisi
Building Inspector
Town of New Windsor, New York

Re: Suburban Homes
Mecca Park
Lot #3
Building Permit #6904

Architect's Project #15791

Dear Frank,

The following is in response to your concerns.
The existing foundation & footings are sufficient to
support the zero-clearance fireplace unit. The footings
according to the builder are taken to the depth of the
building foundation and dur-o-wall reinf. was used in the
construction of the wall. I have been to the job site and
have examined the wall.

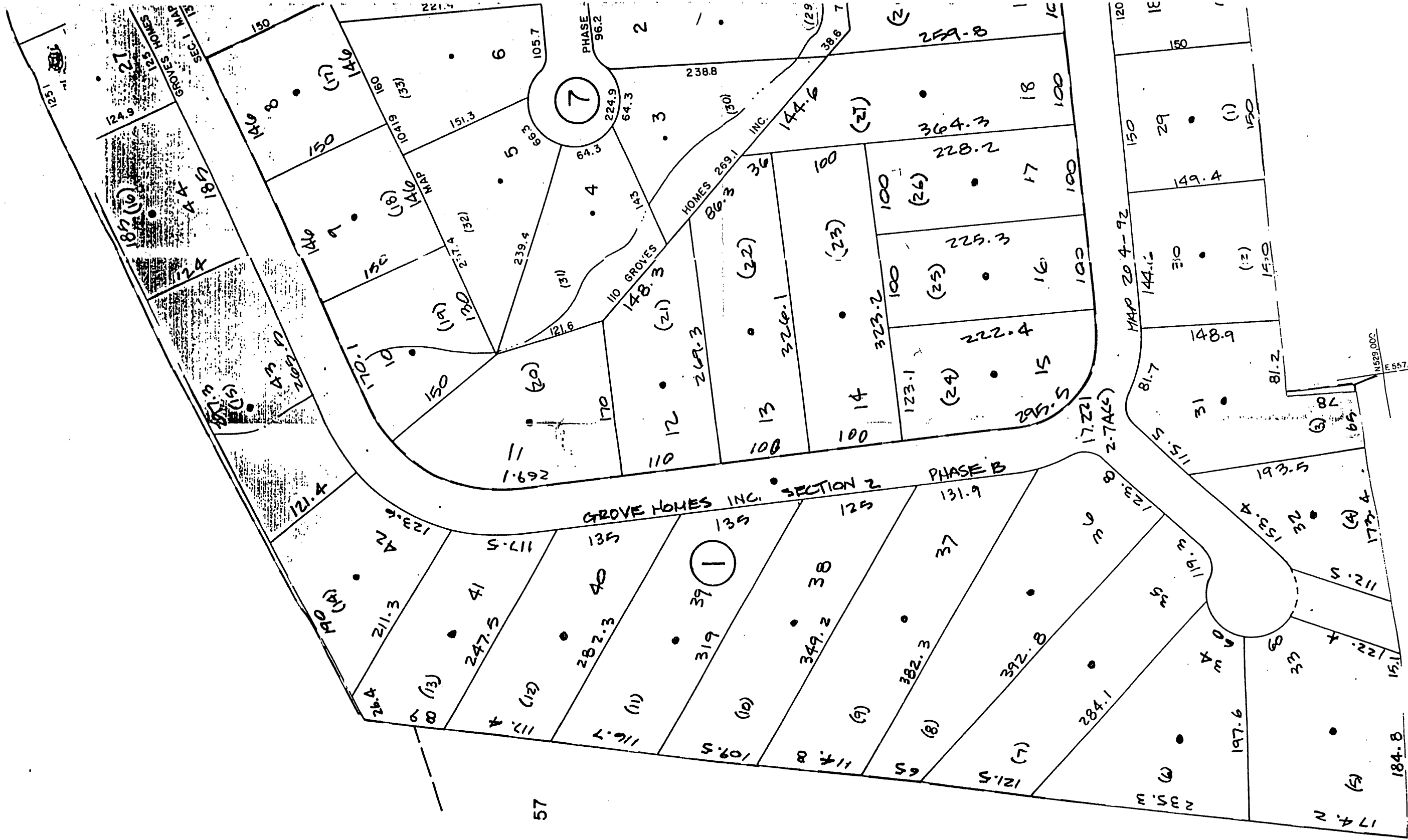
Sincerely yours,

A handwritten signature in black ink, appearing to read "Jerry Sherman". The signature is stylized with a long, sweeping horizontal line extending to the right.

Jerry Sherman R.A.

cc: Suburban Homes

N 529,000
E 557,500



SECTION 57

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

95-20

Date: 05/07/95

I. Applicant Information:

- (a) PARK ROAD CONSTRUCTION CORP., P.O. Box 286, Salisbury Mills, NY x
(Name, address and phone of Applicant) (Owner)
- (b) n/a
(Name, address and phone of purchaser or lessee)
- (c) -
(Name, address and phone of attorney)
- (d) same as above
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- ☐ Use Variance ☐ Sign Variance
- ☒ Area Variance ☐ Interpretation

III. Property Information:

- (a) R-4 33 Park Road 58-1-31 115x193xTR
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? R-1
- (c) Is a pending sale or lease subject to ZBA approval of this application? Yes.
- (d) When was property purchased by present owner? 12/31/91.
- (e) Has property been subdivided previously? No.
- (f) Has property been subject of variance previously? No.
If so, when? -.
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? No.
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: n/a

IV. Use Variance. n/a

- (a) Use Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____, to allow:
(Describe proposal) _____
- _____
- _____
- _____
- _____

(b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

(c) Applicant must fill out and file a Short Environmental Assessment Form (SEQR) with this application.

(d) The property in question is located in or within 500 ft. of a County Agricultural District: Yes _____ No x.

If the answer is Yes, an agricultural data statement must be submitted along with the application as well as the names of all property owners within the Agricultural District referred to. You may request this list from the Assessor's Office.

V. Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section 48-12, Table of Use/Bulk Regs., Col. G.

| <u>Requirements</u> | <u>Proposed or Available</u> | <u>Variance Request</u> |
|------------------------------|------------------------------|-------------------------|
| Min. Lot Area _____ | _____ | _____ |
| Min. Lot Width _____ | _____ | _____ |
| Reqd. Front Yd. _____ | _____ | _____ |
| Reqd. Side Yd. _____ | _____ | _____ |
| Reqd. Rear Yd. <u>40 ft.</u> | <u>23 ft.</u> | <u>17 ft.</u> |
| Reqd. Street Frontage* _____ | _____ | _____ |
| Max. Bldg. Hgt. _____ | _____ | _____ |
| Min. Floor Area* _____ | _____ | _____ |
| Dev. Coverage* _____ % | _____ % | _____ % |
| Floor Area Ratio** _____ | _____ | _____ |
| Parking Area _____ | _____ | _____ |

* Residential Districts only

** No-residential districts only

(b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3)

whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created. Describe why you believe the ZBA should grant your application for an area variance:

(See attached verbiage)

(You may attach additional paperwork if more space is needed)

VI. Sign Variance: n/a

(a) Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

| | <u>Requirements</u> | <u>Proposed or Available</u> | <u>Variance Request</u> |
|--------|---------------------|------------------------------|-------------------------|
| Sign 1 | _____ | _____ | _____ |
| Sign 2 | _____ | _____ | _____ |
| Sign 3 | _____ | _____ | _____ |
| Sign 4 | _____ | _____ | _____ |
| | _____ | _____ | _____ |

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

VII. Interpretation. n/a

(a) Interpretation requested of New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

(b) Describe in detail the proposal before the Board:

VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or

(b) Variance: Granted (___) Denied (___)

(c) Restrictions or conditions: _____

_____.

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC
HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF
APPEALS AT A LATER DATE.

(ZBA DISK#7-080991.AP)

Applicant is seeking relief to allow a 17 ft. rear yard variance for an existing wood deck located at 33 Park Road in an R-4 (residential) zone.

PARK ROAD CONSTRUCTION CORP. is the record owner of the parcel located within the Subdivision for Grove Homes, Inc. The parcel in question is located on a corner lot and has two front yards. Applicant cannot obtain a Certificate of Occupancy as long as there is a zoning violation in existence. Therefore, it is the desire of the Applicant to make application for the rear yard variance in order to justify the existence of the wooden deck.

It is the feeling of the applicant that the granting of the variance will not be detrimental to the health, safety or welfare of the neighborhood or community since the property is located in a residential neighborhood and most all residential dwellings in the neighboring subdivision have wooden decks attached.

The only feasible method which applicant can pursue is the variance process in view of the fact that the parcel is zoned for residential use with restrictions to the bulk regulations for rear yard. To construct a less spacious deck would not be feasible or practical.

Applicant feels that the request for a 17 ft. rear yard variance for the existing deck is inconsequential in light of the fact that the residential parcel is quite large.

It is the feeling of the applicant that the granting of the 17 ft. rear yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

The difficulties stated above are self-created. However, applicant is seeking the necessary approvals in order to conform to the bulk regulations in the R-4 zone.

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK

-----X
In the Matter of Application for Variance of

Park Road Const.

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

95-20.

-----X
STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On May 10, 1995, I compared the 32 addressed envelopes containing the attached Notice of Public Hearing with the certified list provided by the Assessor regarding the above application for variance and I find that the addressees are identical to the list received. I then mailed the envelopes in a U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart
Patricia A. Barnhart

Sworn to before me this
11th day of May, 1995.

Deborah Green
Notary Public

DEBORAH GREEN
Notary Public, State of New York
Qualified in Orange County
4984065
Commission Expires July 15, 1995

(TA DOCDISK#7-030586.AOS)

Date 5/15/95, 19.....

TOWN OF NEW WINDSOR

**TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553**

TO Frances Roth 147 Sycamore Dr..... DR.
New Windsor Ny 12553

[illegible]

PRELIMINARY MEETING:

PARK ROAD CONSTRUCTION

MR. NUGENT: Second Preliminary. Request for 17 ft. rear yard variance for existing deck on Corner lot located on Park Road and Ashley Court in an R-4 zone.

Mr. Ed Biagini appeared before the board for this proposal.

MR. KRIEGER: If I may, as I indicated last time this one came up, I represent the town with respect to this particular, with respect to litigation against the town on this particular parcel. So under the circumstances, I am going to have to recuse myself. If the board feels it necessary to get legal advice, you'll have to get an attorney to do that.

MR. NUGENT: Okay, thank you.

MR. NUGENT: You're on.

MR. BIAGINI: Okay, this is a new home located on Park Road and Ashley Court in Beaver Dam Lake, it's located on a corner lot and the house has a rear deck that is too close to the rear lot line and we're asking for a rear lot line variance for 17 feet.

MR. NUGENT: With the exception of tearing the deck down, is there any modifications that can be made to make the request less?

MR. BIAGINI: Yeah, you could cut 17 feet off the deck.

MR. NUGENT: I understand that.

MR. BIAGINI: Our understanding was and it was I guess mistakenly that the town zoning states that if you are located on a corner lot, you shall maintain two front yards which we have done and the other two lots, one shall be deemed side yard, one a rear yard, we didn't think that it had to be specifically one yard, we thought they were, one could be a side yard and one could be a rear yard. I guess we were mistaken.

MR. NUGENT: The other thing is you didn't build this deck, the owner, the perspective owners built it?

MR. BIAGINI: The people purchasing the house from me built their own deck.

MR. NUGENT: Because the house is still in your name, you're representing them?

MR. BIAGINI: That is correct.

MR. TORLEY: Perspective builders get a building permit for the deck, I mean the people you're selling to get a building permit?

MR. BIAGINI: No, they did not get a separate building permit, it came under the permit for the house. There's no C.O. on the house yet.

MR. TORLEY: So the building permit for the house included a deck?

MR. BIAGINI: Yes.

MR. NUGENT: Larry, do you have a copy of it?

MR. TORLEY: Yes.

MR. NUGENT: If I understand this correctly, it's only this corner that you're hitting?

MR. BIAGINI: That is correct.

MR. TORLEY: Mike, can you refresh me, corner lots as to how you establish which is the side yard?

MR. NUGENT: We went through that.

MR. BABCOCK: It says on a corner lot, both yards that face the street are a front yard and then one other must be deemed a rear yard. Doesn't say which one, it says one other. The practice that I use, it's the yard that is directly behind the way the house faces.

MR. TORLEY: Now, if this were deemed where we have the rear yard interference, if that were deemed a side yard, would you not need a variance?

MR. BABCOCK: That is correct.

MR. BIAGINI: That is what I was here for last time.

MR. KANE: How long is the deck from this point of the house to the edge, you have 53?

MR. BIAGINI: I believe it's a 30 foot deck, no, 26 foot deck.

MR. KANE: And they need 40 there?

MR. BABCOCK: That is correct.

MR. NUGENT: They have 23, they need 17.

MR. TORLEY: I apologize for missing the last meeting, the applicant decided he'd rather request a variance than an interpretation?

MR. BIAGINI: When I came to the last meeting, I wanted the board, my opinion was that the rear yard and the side yard, it did not state in the code book which was which. That is what I came for and then I decided it would be quicker to just take the deck off the house. But when I went back and spoke to the homeowner the next day, he didn't want to do that.

MR. TORLEY: You're coming before here requesting a variance rather than an interpretation?

MR. NUGENT: Right, that is what he is asking for is a variance, 17 foot variance.

MR. BIAGINI: Whatever would be the most expeditious

MR. TORLEY: We do everything by public hearing.

MR. BIAGINI: Yeah, right.

MR. NUGENT: Are there any other questions?

May 8, 1995

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MR. KANE: I have none.

MR. TORLEY: I am assuming that in the previous public hearing the board outlined what they requested you to bring for a public hearing, photographs, deed?

MR. NUGENT: We didn't do all that, we didn't set him up.

MR. LANGANKE: This is a preliminary.

MR. TORLEY: Second preliminary?

MR. NUGENT: Right.

MR. TORLEY: As Andy properly recused himself, I wanted to, I want to make sure.

MR. NUGENT: He knows, he's been here before.

MR. BIAGINI: I know.

MR. NUGENT: Then I'll accept a motion.

MR. TORLEY: I move we set Park Road Construction as represented by Mr. Biagini up for a public hearing.

MR. KANE: Second it.

ROLL CALL

| | |
|--------------|-----|
| MR. KANE | AYE |
| MR. LANGANKE | AYE |
| MR. TORLEY | AYE |
| MR. NUGENT | AYE |

MR. NUGENT: You know what we need?

MS. BARNHART: I gave him all the paperwork already.

MR. BIAGINI: I'll be in tomorrow.

Date 5/12/95, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth, 147 Syracuse Dr. DR.
New Windsor NY 12553

| DATE | | | CLAIMED | ALLOWED |
|---------|----------------------|--|---------|---------|
| 4/24/95 | Zoning Board Meeting | | 75 00 | |
| | Misc. - 1 | | | |
| | Accumanno - 3 | | | |
| | Cox - 3 | | | |
| | Davidson - 4 | | | |
| | Tierney - 3 | | | |
| | Meyers - 8 | | | |
| | Park Road - 10 45.00 | | | |
| | Ciccarelli - 10 | | 189 00 | |
| | <u>42 pp</u> | | | |
| | APPROVED: | | 264 00 | |
| | Chairman - ZBA | | | |

PARK ROAD CONSTRUCTION

MR. NUGENT: Request for 17 ft. rear yard variance for existing deck on corner lot located on Ashley Court in an R-4 zone.

Mr. Ed Biagini appeared before the board for this proposal.

MR. BIAGINO: I am not really requesting a variance, Mike Babcock asked me to come in and he felt that I might need one. My position is that I don't. This is a house built on a corner lot. It's a new home and in your Town Code, the 4814B, rear and side yards on a corner lot, two front yards are required and the remaining two yards, one shall be a rear and one shall be a side yard. My position is I have met the requirements.

MR. NUGENT: One question that I had for the building inspector was how does he interpret what's the front yard, when there are two front yards, how do you determine which one is the front yard?

MR. LANGANKE: He always says that both of them are the front yards.

MR. BIAGINI: What we're talking about is the side.

MR. NUGENT: Well, then somebody has to determine which is the side and the rear and basically, he told me that the way that he does it is by the entrance of the house. In other words, the opposite of the entrance of the house is the rear yard, is that correct? Did I say that correctly?

MR. BABCOCK: That is correct. The law says that on a corner lot, one other yard must be deemed a rear yard, doesn't say which one, just says one other one. In other words, you can't have a corner lot and the rest of them all be side yards. If you get on a cul-de-sac where you're in a pie-shaped lot, you can't have five side yard and two front yards, one of the yards has to be deemed a rear yard. You ought to look at 4837 also again Andy, what we just did under page 4898 which

there is a definition of a corner lot there I'm not sure, page 4898.

MR. NUGENT: At the junction of an abutting, on two or more intersecting streets with an interior angle of intersection does not exceed 135 degrees but this is 119 degrees.

MR. BIAGINI: So this meets the requirements of a corner lot.

MR. NUGENT: A lot abutting on a curved street shall be deemed a corner lot if the tangents to the curve at the points of intersection of the side lot line with the street intersect at an angle of less than 135 degrees which this does, correct, he says 114.

MR. BIAGINI: 119 degrees, so interpretation, it is a corner lot.

MR. BABCOCK: Where do you get the 119 degrees?

MR. BIAGINI: I had my surveyor put it right here on the map.

MR. BABCOCK: You have a new survey other than the one you supplied to me?

MR. BIAGINI: No, no, it's the same survey, he just marked on it, it's 119 degree curve.

MR. BABCOCK: From the side yard, side lot line.

MR. BIAGINI: No, no, the intersection of the street where the two streets intersect is 119 degree curve.

MR. BABCOCK: If you look at the line of the intersection, it's not a complete curve, it's not a, so there's two curves, there's an inverted curve and then there's another curve that comes out, I don't know which one he's talking about.

MR. BIAGINI: I'm talking about the actual corner of the lot where the two streets meet.

MR. NUGENT: Which is actually the curbing, if there is curbing there?

MR. BIAGINI: So in effect, that is a corner lot.

MR. BABCOCK: Okay, fine with me.

MR. NUGENT: Now, we get back to what I said in the beginning, how do we determine which is the rear lot, the rear yard of this lot and according to your explanation, the opposite of the entrance of the building.

MR. BABCOCK: That is correct.

MR. NUGENT: I understand that this is entrance of the building.

MR. BIAGINI: Yes, except it doesn't say that, you know, I have been here before, Mike, on a lot over in Shady Grove with the same type of situation and basically, I came in and went through the whole variance process and it was determined that one was a rear yard and one was a side yard, which is what we have here.

MR. BABCOCK: Well, the code doesn't tell you which one to call the rear and side yard, just says one other yard, if you have, this is a 1, 2, 3, 4, 5, 6, 7 sided lot, it's got seven sides to it.

MR. NUGENT: Yeah, you're right.

MR. REIS: So, best case scenario is for the builder's sake the 65 foot rear yard could be rear yard for his sake or the 81 foot could be the rear yard, is that the question?

MR. BIAGINI: Basically, what my contention is make that, this is the rear yard, the 61 feet, you need 40 feet and that this be considered the side yard.

MR. NUGENT: When you you only need 15?

MR. BIAGINI: Right.

MR. KRIEGER: There's a definition of a rear lot line on page 4898, which in part is not helpful because it says the lot line generally opposite to the street line which of course on a corner lot, it's not helpful. However, it goes on to say if the rear lot line is less than ten feet in length, then it shall be deemed to be a line parallel in the front lot line not less than ten feet long line furthest from the front lot line. So I don't have the map in front of me, that appears to be the only that I can see the only definition in the code which would, which might help.

MR. BABCOCK: On page 4905, there's some definitions of rear yard, side yard, front yard and yard line, it says a side yard is open to the sky between any property line other than a street or rear line, this is side yard.

MR. KRIEGER: Yard side?

MR. BABCOCK: Yes.

MR. KRIEGER: Both definitions of yard rear and yard side are dependent on first finding where the rear lot, rear lot line is because they all are in connection to that so it is kind of circular reasoning, gets us back to where.

MR. NUGENT: That is another letter we ought to send to the Town Board, how to determine a rear yard.

MR. BABCOCK: I think if this house was setting straighter with the two, what I say are side yards, you know what I am saying, instead of sitting off to the angle, I don't think there'd be any question in anybody's mind that that is the closest lot line as far as to that rear deck.

MR. KRIEGER: I'll probably have to wait until I get the minutes back.

MR. LANGANKE: So you are asking us for an interpretation?

MR. NUGENT: Basically.

MR. BIAGINI: Basically, I felt that I didn't have to be here at all, Mike felt that I should be here so I am here cause I needed a C.O. for the house.

MR. NUGENT: It's really up to us to determine whether or not we feel--

MR. LANGANKE: But we can't determine that now anyway can we now or can we?

MR. NUGENT: Do you have the drawing in front of you?

MR. LANGANKE: Yeah, I do.

MR. KRIEGER: How is the house oriented on this lot?

MR. NUGENT: It's the whole lot with 7 sides, it's the whole entire thing. What happened he had plenty setback no matter where he put it under the original layout of the house but then they put the deck on, this is what's throwing the whole thing off.

MR. NUGENT: He's saying this is the rear yard, need 40 feet, don't have it.

MR. NUGENT: It's only 25 feet, it's a big deck. You only have 28'7" left to here. But, if it's a side yard, he's fine.

MR. BIAGINI: If you wanted to do it and measure parallel to the road, measure straight back, then we don't have a problem going back to that.

MR. KRIEGER: That is not the way the code is written.

MR. BIAGINI: This is three quarters of an acre.

MR. LANGANKE: So what are you looking for, a straw vote, Mr. Chairman?

MR. NUGENT: Well, I think I am looking for a little guidance from the attorney, really, he has to tell us what our rights are or what our--

MR. BABCOCK: Maybe I can just add one thing and it's only my opinion on this if it's an interpretation, if it's set up for a public hearing for an interpretation, as you know, he said he's waiting for a C.O. He's anxious to get a C.O. If the interpretation is decided by this board that he does need a variance, then he starts all over. That is two weeks from now.

MR. KRIEGER: I would say first of all--

MR. BABCOCK: It's the same amount of time is what I am trying to say.

MR. KRIEGER: First of all, we start with the principal that the Zoning Board can take no action other than by public hearing. You can't render an interpretation although we have had a number of applications for interpretation/use variance, I don't see any reason why that procedure can't be followed with an area variance so that he won't have to make, you know, go twice.

MR. NUGENT: Supposing we felt that and I am only saying that hypothetically now, suppose we felt that there wasn't any need for any variance or any interpretation?

MR. KRIEGER: Then how do you know the problem.

MR. NUGENT: This is what I am asking you, how do we do that, how do we determine that?

MR. KRIEGER: The problem that the board is left with basically is the way that the statute is written. It doesn't clearly rule in or rule out anything. The problem is the statute when it says one shall be deemed, one shall be deemed a rear, what it doesn't tell you is who's doing to determine which is the--

MR. LANGANKE: Maybe in this case we're doing it.

MR. KRIEGER: Well, ultimately if it is in doubt, it goes up to the Zoning Board, the Zoning Board will have to do it. But obviously, that is the only way that the Zoning Board can do it. Other than that--

MR. LANGANKE: To make it fit, you know, I see two front yards here and I see a back yard favorable to the applicant, you know, if we're doing any determination, that is what I deem.

MR. KRIEGER: Unfortunately, in order for the Zoning Board, if it becomes, if it's up to the Zoning Board, they are powerless, it is powerless to act absent a public hearing, unless the statute is clear and this one isn't.

MR. LANGANKE: If we can look at this and we all have an idea, you know, I'm just telling you what my idea is, if that will help resolve this.

MR. KRIEGER: Yeah, other than the substantive viewpoint is yours, I'm only speaking in terms of procedural. Not what you do when you get there but how do you get there?

MR. LANGANKE: Well, I'm just commenting on your saying that, who does the determining so I am not, I'm just determining.

MR. KRIEGER: In order for, the problem is, in order for the Zoning Board to act, it has to act officially. It is one of the unfortunate things of the drafting of the statute is the choice of that word but--

MR. NUGENT: I guess what I was asking you and I don't mean to be a wise guy, could the Zoning Board say hey, you don't belong here, as far as we're concerned, you don't belong here. I know we've done that in the past and not been this particular item but it has been on other situations.

MR. KRIEGER: Sure, when you have a situation where the statute, the applicable statutes are clear, then you can turn around and say that it has been done, you can say to people hey, you don't, there's no interpretation involved, you just clearly don't, aren't required to be here by any reasonable reading of the statute. The problem here is that if you were to take such an action, what I am telling you is if you were to do it

in this case, it would be subject to, it would be subject to challenge and it would be less than the Zoning Board of Appeals would be standing on less than absolute ground.

MR. LANGANKE: Who would challenge it?

MR. KRIEGER: Anybody who's a neighbor, anybody who's within the required area for public would have standing to do so.

MR. NUGENT: I don't want to delay this thing forever but we're dragging it out pretty long now.

MR. LANGANKE: This is a close call, we can say.

MR. BABCOCK: That is why he's here, Herb, basically, the way I feel, I understand the ordinance is that I read the ordinance and I make the decision based on zoning as the zoning inspector and I have made a decision that I feel that this is a rear yard. Now, it's up to this board to make an interpretation on the facts that the applicant wants to give you and you can decide based on those facts through an interpretation, yes, but I think in this case, my personal opinion is I think that this is not clear in my mind whether it's a rear yard or side yard. And I think that is the way the procedure should work. I don't think it should work where the Zoning Board feels that no, it's not a side yard, let's just call it a rear yard to benefit the applicant and let's forget about this. It's clearly the back of the house, you know, I have no problem with the Zoning Board making a determination that this is a side yard, that is fine.

MR. KRIEGER: That is the, as I say, it's just a question of interpretation, when you have a situation where the interpretation is less than, is not absolutely crystal clear, is then to act without a public hearing would leave the board exposed.

MR. NUGENT: We have to go for a public hearing regardless so we have to have a public hearing regardless of whatever our decision is.

MR. KRIEGER: Once you have the hearing, whatever decision you made, you're covered procedurally.

MR. NUGENT: But the applicant has to go through the public hearing procedure which is the letters and the whole nine yards.

MR. KRIEGER: Yes.

MR. NUGENT: I think what Mr. Biagini was trying to do and I think what Herb is alluding to was try to get this over with here and now.

MR. LANGANKE: Right.

MR. NUGENT: But and I have to agree with Andy, once you're sent, once he's sent here on a denial, then we have to act in a certain procedure, I'm just saying that but am I right in what I am saying?

MR. KRIEGER: You're absolutely correct.

MR. NUGENT: Well, then, I think that we should set him up for an interpretation.

MR. LANGANKE: Well, he should apply for a variance also.

MR. KRIEGER: Interpretation and/or area variance one shot.

MR. LANGANKE: Right.

MR. NUGENT: So it's taken care of.

MR. BIAGINI: Or take the deck off the house and get my C.O.

MR. NUGENT: You only have to remove enough of it to make your 40 feet, which is considerable almost in half.

MR. REIS: The deck is completed?

MR. BIAGINI: Yeah, actually the homeowner put the deck

April 24, 1995

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on while the house was going up, so I am going to tell him he's got to take it down.

MR. NUGENT: Would you like us to set you up for a public hearing?

MR. BIAGINI: No, I'm going to take the deck down, thanks for your time, thank you.



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TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

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May 10, 1995

PARK ROAD CONSTRUCTION
P. O. Box 286
Salisbury Mills, N. Y. 12577

Attn: Edward Biagini

Re: Tax Map Parcel #58-01-31

Dear Mr. Biagini:

According to our records, the attached list of property owners are within five Hundred (500) feet of the above-referenced property.

The charge for this service is \$55.00, minus your deposit of \$25.00, leaves a balance due of \$30.00.

Sincerely,

LESLIE COOK
Sole Assessor

/pab
Attachment
cc: Patricia A. Barnhart

Rakowiecki, Frances J.
423 Station Road
Salisbury Mills, N. Y. 12577

Estate of Margaret Capolino
% Ilando Capolino
50 Main Street - Suite 1000
White Plains, N. Y. 10601

Kennedy, Charlene M. & James R.
21 Park Road
Salisbury Mills, N. Y. 12577

Hirsch, Mayer
6 Hayes Court
Monroe, N.Y. 10950

Locascio, Philip & Clara
25 Park Road
Salisbury Mills, N. Y. 12577

Stuber, Kenneth L. & Elizabeth
29 Park Road
Salisbury Mills, N. Y. 12577

McManus, Lori Ann
14 Ashley Court
Salisbury Mills, N. Y. 12577

Vallancourt, John P. & Sheila M.
Ashley Court
Salisbury Mills, N. Y. 12577

Pawlak, James M. & Maureen
6 Ashley Court
Salisbury Mills, N. Y. 12577

Quinn, James P. & Deborah A.
2 Ashley Court
Salisbury Mills, N.Y. 12577

Stevens, Chris & Kathleen A.
45 Park Road
Salisbury Mills, N. Y. 12577

Foy, Michael R. & Sherrie
P. O. Box 150
Salisbury Mills, N. Y. 12577

Lamarr, Rudolph & Barbara A.
7 Alphonse Court
Salisbury Mills, N. Y. 12577

Spaulding, James G. & Patricia D.
13 Alphonse Court
Salisbury Mills, N. Y. 12577

Burgos, Victor A. & Jacqueline P.

17 Alphonse Court
Salisbury Mills, N. Y. 12577

Rodstrom, Gregory A. & Anna D.
Park Road
Salisbury Mills, N. Y. 12577

Wallace, Jerry & Theresa J.
30 Park Road
Salisbury Mills, N. Y. 12577

Sheehy, Thomas P. & Janet C.
24 Park Road
Salisbury Mills, N. Y. 12577

Corrado, Dominic & Jacalyn
18 Park Road
Salisbury Mills, N. Y. 12577

Clayton, Sally W.
30 Hillcrest Drive
Salisbury Mills, N. Y. 12577

Mahoney, Michael J. & Elizabeth A.
32 Hillcrest Drive
Salisbury Mills, N. Y. 12577

Segrett, Steven M. & Mary T.
Hamilton, Robert J.
7 Forest Lane
Salisbury Mills, N. Y. 12577

Youmans, William H. & Ellen M.
3 Forest Lane
Salisbury Mills, N. Y. 12577

Lachance, Peter & Andrea
22 Ridgeview Road
Salisbury Mills, N. Y. 12577

Ferraioli, Gilda
1 Forest Lane
Salisbury Mills, N. Y. 12577

Rodriguez, Emilio
28 Hillcrest Drive
Salisbury Mills, N. Y. 12577

Burke, Daniel J. & Kathleen M.
26 Hillcrest Drive
Salisbury Mills, N. Y. 12577

Briody, Thomas & Sonia
24 Hillcrest Drive
New Windsor, N. Y. 12553

Dragonetti, Ralph E., Jr.
6 Forest Lane

Salisbury Mills, N. Y. 12577

Arrant, Laurence & Lisa
32 Hillcrest Drive
Salisbury Mills, N. Y. 12577

Suman, Katherine
12 Ridge Road
Salisbury Mills, N. Y. 12577

Washburn, Raymond F. & Colleen A.
2 Forest Lane
Salisbury Mills, N. Y. 12577